

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
vs.)
)
GREGORY HOFFMAN,)
)
Defendant.)
_____)

Case 2:08-cr-00027-GMN-GWF

ORDER DENYING
Petitioner's Motion for Certificate of
Appealability (ECF No. 136/135)

Before the Court is Petitioner's Motion for Certificate of Appealability (ECF No. 136/135). Rule 22 of the Federal Rules of Appellate Procedure addresses the requirement for a certificate of appealability to be issued. Rule 22 states in relevant part, as follows,

(b) Certificate of Appealability.

(1) In a habeas corpus proceeding in which the detention complained of arises from process issued by a state court, or in a 28 U.S.C. § 2255 proceeding, the applicant cannot take an appeal unless a circuit justice or a circuit or district judge issues a certificate of appealability under 28 U.S.C. § 2253(c). If an applicant files a notice of appeal, the district clerk must send to the court of appeals the certificate (if any) and the statement described in Rule 11(a) of the Rules Governing Proceedings Under 28 U.S.C. § 2254 or § 2255 (if any), along with the notice of appeal and the file of the district court proceedings. If the district judge has denied the certificate, the applicant may request a circuit judge to issue it.

The legal standard used to determine if a certificate of appealability should issue is addressed in Section (c)(2) and (3) of 28 U.S.C. § 2253 which states as follows,

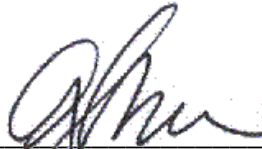
(2) A certificate of appealability may issue under paragraph (1) only if the applicant has made a substantial showing of the denial of a constitutional right.

(3) The certificate of appealability under paragraph (1) shall indicate which specific issue or issues satisfy the showing required by paragraph (2).

1 This Court has considered the issues raised in Petitioner's Amended Petition for Writ of
2 Habeas Corpus Pursuant to 28 U.S.C. § 2255 (ECF No. 127), and Petitioner's Motion for
3 Certificate of Appealability (ECF No. 136/135) with respect to whether they satisfy the standard
4 for issuance of a certificate of appeal. The Court determines that none of the issues raised meet
5 that standard. Accordingly, the Court will deny Petitioner a Certificate of Appealability.

6 **IT IS THEREFORE ORDERED** that Petitioner's Motion for Certificate of Appealability
7 (ECF No. 136/135) is **DENIED**.

8 **DATED** this 27th day of December, 2013.

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12 Gloria M. Navarro
13 United States District Judge
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